

ARGUMENT

Claims 1-55 remain pending in the application. Independent Claims 1, 45 and 55 have been amended. Dependent Claims 2 and 3 have been amended to independent form and dependent Claims 8, 9, 11-15, 19, 23, 35-37, 40, 46 and 52 have been amended.

With respect to the claims, the Examiner has indicated that Claims 2-25, 33-34 and 43-44 would be allowable if rewritten in independent form. Accordingly, Claims 2 and 3 have each been re-written in independent form to include all of the elements of the claims from which they previously depended, namely unamended Claim 1. Claims 4-25 and 43-44, which depend therefrom, are correspondingly allowable.

The Examiner has rejected independent Claim 1 under 35 U.S.C. 102(b) as being anticipated by Moses (USP 5,351,926). The Examiner has rejected independent Claims 45 and 55 under 35 U.S.C. 102(b) as being anticipated by Bowman (USP 3,912,139). Applicant traverses each of these rejections on the grounds that the references do not show each and every element of the limitations set forth in Applicant's respective claims.

Turning first to Claim 1, Moses illustrates a fixed, permanent support column 20 for a load bearing wall. Column 20 is broken up into sections 48, 50, 52 that slide inside each other. Apertures 54 are provided along all of the columns so that a bolt 56 can be inserted through the apertures to fix the column sections relative to one another. The purpose of the Moses support column is to allow flexibility in installation. However, once installed, the support column is a permanent fixture. In contrast, Applicants claimed cargo brace is a device that is designed to be continuously adjusted for each cargo load it is used to secure. It provides a telescoping leg so as to be adjustable between the sides of cargo trailers/containers of different widths. Likewise, it includes an adjustment mechanism that allows the brace to be tightly secured into place. The apertures 54 of Moses are just holes in a pipe through which a screw is secured. This type of locking mechanism does not permit the type of incremental locking that is achieved by the adjustment mechanism of a ratchet or threaded members.

Such incremental locking capability is necessary to ensure that the brace is tightly secured between the walls of the trailer/container in which it is disposed, even when the walls may flex slightly as is common in semi-truck trailers. Applicant has amended Claim 1 to clarify the nature of the adjustment mechanism. As such, Claim 1 is not anticipated by Moses and the examiner is respectfully requested to withdraw the rejection of Claim 1.

Turning to Bowman, there is shown a cycle carrier for a vehicle. The carrier has three transverse brace members 22, 24, 26. These are not telescoping legs as suggested by the examiner. Rather, each one of these members is a fixed piece. A sleeve 28, 30, 32 affixed to the bottom of the bike track 12 allows the bike track to slide on the brace members, but there is nothing telescoping about this arrangement. Additionally, as with Bowman above, the sleeve is simply fixed to the brace member by aligning apertures 42 in the two elements and passing a bolt 40 therethrough. This type of locking mechanism does not permit the type of incremental locking that is achieved by the adjustment mechanism of a ratchet or threaded members. Such incremental locking capability is necessary to ensure that the brace is tightly secured between the walls of the trailer/container in which it is disposed. Applicant has amended Claims 45 and 55 to clarify the nature of the adjustment mechanism. Furthermore, Applicant has clarified that two of the telescoping members extend in a direction opposite the other telescoping member. In Bowman, to the extent the elements shown therein can be considered telescoping members, they are not arranged in this claimed configuration. As such, Claims 45 and 55 are not anticipated by Bowman and the examiner is respectfully requested to withdraw the rejection of Claims 45 and 55.

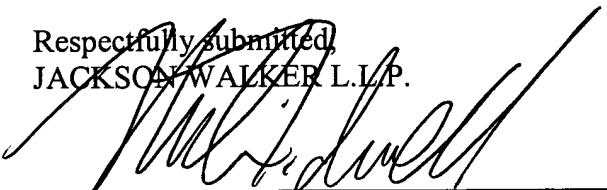
Applicant has amended the claims to clarify the structure of the invention and to clarify the functions of the claimed invention. However, amendments have not been made to narrow the claims of the original application but, rather simply, to clarify claims due to grammar that the Examiner found unclear.

Based on the foregoing, the Examiner is respectfully requested to withdraw the rejections of independent Claims 1, 45 and 55 and pass these claims to allowance. Likewise, since each

independent claim is allowable, the Examiner is respectfully requested to pass all dependent claims to allowance as well.

If the Examiner feels that a telephone conference with the undersigned would be helpful to the allowance of this application, a telephone conference is respectfully requested.

Respectfully submitted,
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CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited on the date shown below with the United States Postal Service, with sufficient postage as First Class Mail (37 CFR 1.8(a)), in an envelope addressed to Mail Stop Response/FEE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450.

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Renee Treider

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